

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INVISTA B.V., et al.,

Plaintiffs,

v.

E.I. DU PONT DE NEMOURS AND COMPANY,

Defendant.

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08 CV 3063 (SHS)

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NOTICE OF MOTION

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Oral Argument
Requested

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PLEASE TAKE NOTICE THAT upon the accompanying Memorandum of Law, the Affidavit of Robert J. Dwyer, sworn to on May 16, 2008, and the pleadings and other proceedings in this action, Defendant E.I. DuPont de Nemours and Company will move this Court, before the Honorable Sidney H. Stein, United States District Court for the Southern District of New York, United States Courthouse, 500 Pearl Street, Courtroom 23A, New York, New York, at 10:00 a.m., on July 25, 2008, for an order pursuant to Federal Rule of Civil Procedure 12(b)(6), dismissing the following portions of the Complaint in this action, with prejudice: (i) the indemnification claim, pursuant to Section 8.4(a)(ii) of the Purchase Agreement, for remediation expenses; (ii) the indemnification claim, pursuant to Section 8.5(b) of the Purchase Agreement, for remediation expenses relating to the audit process and resulting consent decree; (iii) the punitive damages claim; (iv) the indemnification claim, pursuant to Section 8.4(a)(ii) of the Purchase Agreement, arising from the Overend Technologies antitrust litigation;

and (v) the indemnification claim, pursuant to Section 8.5(a)(i) of the Purchase Agreement and an unspecified "other contract," relating to the ITAM Receivable, and for such other and further relief, including the Defendant's costs and attorneys' fees, as is just and proper.

Dated: New York, New York
May 16, 2008

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